

## **Harpswell Planning Board Meeting Minutes of March 19, 2003, draft KO page 1 of seven**

**Attendance:** James Henderson-Chairman, John Papacosma-Vice-Chairman, Don Rogers, Dorothy D. Carrier, Howard Nannen, Noel Musson - Planner, Karen O'Connell-Recording Secretary.

The meeting had been advertised in the Times Record, videotaped, broadcast live on Harpswell TV, and recorded. Chairman Henderson called the meeting to order at 6:30 P.M., introduced above members and staff and led the pledge of allegiance. Henderson then reviewed general Board procedures and the agenda for the evening.

**Approval of Minutes - Motion - The minutes of February 19 were approved as presented (Motion by Rogers and seconded by Henderson - Carried 4-0 with Carrier abstaining as she was not in attendance at that meeting)**

**Order of Business - Motion - To take the Darling matter, (item 03-03-02) first, which is a different agenda order than presented, as this item should be a brief one. (Motion by Nannen and seconded by Rogers - Carried 5-0)**

**03-03-02 - Orville and Betsy Darling, Site Plan Review - Wharf Approval, Commercial Fisheries I, Tax Map 64-15, Rocky Hill Lane, Oakhurst Island.**

Site Visit - Chairman Henderson reported that a site visit by Board members Rogers, Nannen, Papacosma and himself had taken place on Monday March 17. The Board reviewed the location and noted a straight forward proposal with a wharf anchored to the ledge and not projecting too far into the traveled portion of the waterway.

Presentation by Applicant - Orville Darling described his plan for a 35 foot wide wharf on Oakhurst Island for his personal use. He indicated the wharf would project only 16 feet into the waterway and noted the wharf would be placed over bare ledge with only one row of pilings in the water. He described his reason for the width of the wharf as due to storage of traps and equipment and the short time frame (about one and a half hours) of access to the wharf because of tides. Darling elaborated that his reasons for the 35 width wharf also involved the need to back a boom truck onto the wharf to load or unload equipment without the need to move the truck or equipment around because of the tides and brief access period.

Board Review and Questions - Henderson asked if there were any comments or questions by the Board or those present and there were none.

Section 15.3 of Shoreland Zoning - The Board then reviewed Planner Musson's March 14, 2003 memo which reviews Section 15.3 of the Shoreland Zoning Ordinance.

Henderson reviewed criteria 15.3.1 through 15.3.3 and noted there were no particular impacts on beaches or the waterway.

In reference to criteria 15.3.4, Henderson asked Darling for information regarding the reason for the size of the wharf which is summarized above. After hearing Darlings' explanation, Henderson proposed a motion. **Motion - The Board finds that the applicant has justified the larger than 12 foot width size wharf due to the limited time to load and unload the boat and because the equipment to be loaded and unloaded needs to be on the wharf to accomplish loading and**

**unloading within the hour to an hour and a half time that he has to do this. (Motion by Henderson and seconded by Rogers - carried 5-0)** Rogers indicated he agrees the applicant needs the space to spread his nets and gear. Nannen indicated he felt this wharf design was a good way to resolve the issue of avoiding the traveled waterway and justified the width. Darling indicated it also avoids ice problems. Nannen indicated there is a gravel access road leading into the site.

Henderson continued with review of Musson's memo reviewing 15.3.5 through 15.3.7 and noted these items were not relevant.

Henderson indicated the process of following Site Plan Review standards may want to be reviewed by ordinance review committees for their relevancy to such situations.

#### Board Review of Section 15 of the Site Plan Review Standards

15.1 Dimensional Requirements - Henderson reviewed dimensional requirements noting there is a setback issue with the neighbor. Henderson referenced a letter on file from the abutter Alexander and Lumbert Where the abutters state they recognize the structure would be 20 feet from their property line and Henderson noted they expressed no objections. **Motion - The proposal meets the requirements of Section 15.1 considering the grant of permission by the abutting property owners is on file. (Motion by Henderson and seconded by Carrier - carried 5-0)**

15.2 Utilization of Site - Henderson asked the applicant about travel on the site and Darling responded that he goes down the hill on occasion to store traps and it is grassed on the bottom area and he is careful not to cut this grass. He indicated that he would utilize the site for a brief period twice a year for a total of three months and not on a daily basis. Nannen confirmed that no bait would be off loaded at this site. **Motion - The application meets the requirements of section 15.2 utilization of the site and the development will have minimal impact on the natural features because of relatively infrequent passage over this area (Motion by Henderson and seconded by Nannen - carried 5-0)**

15.3 Adequacy of Road System - **Motion - The Board finds that the road system leading to the site is adequate. (Motion by Henderson and seconded by Papacosma - carried 5-0)**

15.4 Access into the Site - **Motion - The Board finds the application meets the requirements of 15.4 because the access into the site is via an existing road which already handles the use of this site. (Motion by Henderson and seconded by Rogers - carried 5-0)**

15.5 Access/Egress Way Location and Spacing - **Motion - The Board finds the application meets the requirements of section 15.5 because the existing access and egress are not altered. (Motion by Henderson and seconded by Rogers- carried 5-0)**

15.6 Internal Vehicular Circulation **Motion - The Board finds the application meets the requirements of Section 15.6 because the site is an open field and no alterations to the field are being proposed. (Motion by Henderson and seconded by Carrier - Carried 5-0)**

15.7 Parking - **Motion - The Board finds the application meets the requirements of Section 15.7 because the site is an open field and no alterations are proposed. (Motion by Henderson and seconded by Rogers - Carried 5-0)**

15.8 Pedestrian Circulation - **Motion - The Board finds the application meets the requirements of Section 15.8 because this is a commercial fishing wharf for one person and**

**no pedestrian circulation plan is needed. (Motion by Henderson and seconded by Rogers - Carried 5-0)**

**15.9 Storm water Management - Motion - The Board finds the application meets the requirements of Section 15.9 because the applicants do not intend to disturb the natural flow of Storm water. (Motion by Henderson and seconded by Rogers - Carried 5-0)**

**15.10 Erosion Control - Motion - The Board finds the application meets the requirements of Section 15.10 because no earth moving is proposed in the construction and the natural vegetative buffers will be maintained to help control erosion. (Motion by Henderson and seconded by Papacosma - Carried 5-0)**

**15.11 Water Supply and Groundwater Protection - Motion - The Board finds the application meets the requirements of Section 15.11 because there is no water supply to this site and this is not applicable. (Motion by Henderson and seconded by Carrier - Carried 5-0)**

**15.12 Subsurface Waste Disposal Motion - The Board finds the application meets the requirements of Section 15.12 because this is not applicable as there is no subsurface wastewater system proposed. (Motion by Henderson and seconded by Carrier - Carried 5-0)**

**15.13 Utilities and Essential Services - Motion - The Board finds the application meets the requirements of Section 15.13 because this is not applicable as there are no utilities serving this site. (Motion by Henderson and seconded by Papacosma - Carried 5-0)**

**15.14 Natural Features and Buffering - Henderson reviewed the criteria with the Board indicating this area is generally isolated from others. Motion - The application meets the requirements of section 15.14 because there will be no tree removal, and minimal if any compaction of the soil, vegetation will be maintained and there is no need for screening because there is either natural screening or there is very little other use near this proposal. (Motion by Henderson and seconded by Carrier - carried 5-0)** Nannen indicated he would like to encourage the applicant to maintain the grass near the wharf and he would encourage this as it would reduce run off coming down the drive to the cove.

**15.15 Lighting - Motion - The Board finds the application meets the requirements of Section 15.15 because this is not applicable as there is no lighting proposed. (Motion by Henderson and seconded by Carrier - Carried 5-0)**

**15.16 Water quality Protection - Henderson asked if there would be storage of any chemicals or fuels on the wharf and Darling indicated he would not. Motion - The Board finds the applicant meets the requirements of section 15.16 because the applicant has stated there will be no storage of any chemicals, petroleum products or other materials that may run off or percolate into the ground or run off into the water. (Motion by Henderson and seconded by Carrier - carried 5-0)**

**15.17 Hazardous, Special, and Radioactive Materials - Motion - The Board finds the applicant meets the requirements of section 15.17 because no storage of any hazardous, special, and radioactive materials is proposed. (Motion by Henderson and seconded by Nannen - carried 5-0)**

**15.18 Solid, Special, and Hazardous Waste Disposal - Motion - The Board finds the applicant meets the requirements of section 15.18 because all solid waste will be disposed of at the Harpswell Recycling Center and there is no special or hazardous waste. (Motion by Henderson and seconded by Nannen - carried 5-0)**

15.19 Historic and Archaeological Resources - **Motion - The Board finds the applicant meets the requirements of section 15.19 because the applicants will not be disturbing any archaeological sites, they have submitted letters to both the Maine Historic Preservation Commission and to Maine Native American Tribes and have received no response indicating this is a problem. (Motion by Henderson and seconded by Carrier - carried 5-0.)**

15.20 Flood Plain Management - The Board reviewed a memo from the Codes Office relative to the Flood Zone (#24 in the file). **Motion - The Board finds that the applicant meets the requirements of Section 15.20 since wharfs are exempt from this criterion. (Motion by Henderson and seconded by Rogers - carried 5-0)**

15.21 Technical and Financial Capacity - **Motion - The Board finds the applicant meets the requirements of Section 15.21 Technical Financial Capacity because of the memo from Peoples Heritage Bank (# 15 in file) and for the reasons stated in Noel Musson's memo to the Board. (Motion by Henderson and seconded by Nannen - carried 5-0)**

Board Vote To Approve - **Motion- The Board approves the application of Orville and Betsy Darling to construct a wharf at this location. (Motion by Henderson and seconded by Rogers - carried 5-0)**

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**03-03-01 Sunset Ridge L.L.C. (Chris, Bill, and Jeremy Saxton), Subdivision Review, Interior (Tree Growth), Tax Map 12-109, Off Sunset Cove Rd., (R/W access Off Harpswell Neck Rd.)**

Henderson indicated he believed the Board had previously approved the essence of this proposal except for the issue of setbacks from the forested wetlands. Henderson noted the Ordinance had been changed to allow a 25 foot setback.

Presentation by Applicant - Chris Saxton opened the presentation indicating the plan to build a 7 lot subdivision off route 123. Mark Vannoy, applicant's representative, summarized changes since the previous presentation to the Board as follows: lot lines had been adjusted; they had moved the building envelope back 75 feet from a tributary stream; the building envelope was now 25 feet from the forested wetland (per the new Ordinance passed at the March 8, 2003 Town Meeting); they had received a permit from the Department of Environmental Protection for the proposed road and drive and associated filling on the drive and main right of way; and had received independent technical review and comments on the storm water management plan and that they adjusted the plan for storm water to meet concerns raised.

Board Questions and Discussion - Henderson asked if any one present had questions or concerns and none were raised.

Nannen then asked to clarify where on lot 6 and which side of the wetland would be built upon and Vannoy indicated it would be the back portion and that this was the one instance where the wetland would be crossed. Henderson asked to clarify setbacks and Vannoy indicated that setbacks depended on what governed it, either stream or wetland setbacks. Henderson also

asked to clarify regarding Department of Environmental Protection (D.E.P.) approval and culverts on the driveway and Vannoy indicated the approval had been obtained from D.E.P. and at the technical review. Papacosma indicated the effect of the culvert was to reduce the flow and Vannoy indicated this would work to assure the road was not overtopped in a 25 year flood event. Vannoy explained rip rap would extend four feet beyond the culverts and pitch would not exceed three to one.

Henderson reviewed the conditions previously requested and asked about access to alternate water supply should supply be inadequate and Vannoy did not add this to the plan as he felt this would unduly encumber other lots. Noel Musson, Town Planner, indicated he had no issues. Papacosma raised a question regarding two lots who border the road as seeming to be excluded from the Road Association. Vannoy explained that lots 5 and 6 have a private road that is a common access road where they would have responsibility. Vannoy indicated they wanted to minimize effects of crossing the wetland. Nannen clarified that the person building the common drive would need to meet the road requirements.

Nannen asked to clarify a curve radius and it was explained as being 150 feet (C-14). It was clarified by Bill Saxton that the pipeline is not a part of these properties.

Chris Saxton clarified with Henderson on the issue of water supply and Vannoy responded that they had worked with a hydrologist and Fred Perry well driller and they had both indicated that there should be no issues. Musson indicated that it was not a typical requirement to have a guarantee when buying a lot. Papacosma indicated there was more information on water supply than typical.

**Board Approval and Vote - Motion - The Board approves the application by Sunset Ridge LLC received on February 20, 2003 based on a plan dated March 10, 2003 (with Mylars dated 3-19-2003) and the Board rescinds it's previous condition dated October 24, 2002 indicating "that a written commitment be made to buyers of lots that they will have access to alternate water supply should they be unable to obtain water on their lot" and the Board bases its approval among other things on a memo from Noel Musson, dated March 13, 2003 regarding the satisfaction of the requirements for an application and compliance with Subdivision Ordinance Section 9. (Motion by Henderson and seconded by Rogers)** Nannen asked to discuss a concern that the common driveway crosses the wetland and two owners would be necessary to resolve the issue. Saxton indicated it would be a marketing problem with the lot and potential owners would have this responsibility. Nannen asked if the drive could be prebuilt to approval specs. Vannoy indicated if one lot sells, then the Saxtons and the prospective buyer would share the cost. Nannen indicated he would accept this as a condition if the Saxtons would undertake this responsibility to construct whatever has to be constructed to have a proper driveway built there so we don't run into a builder building a wider drive than necessary on one lot. Henderson asked if the discussion was sufficient and Nannen agreed.

**Vote - The Board voted 5-0 in favor of the above motion.** The Mylars were signed at this point dated March 19, 2003

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**03-03-03 John S. White, Request Approval of Land Use in the Shoreline Zone, Shoreland Residential , Tax Map 17-23, Cardinal Way, Off Basin Point Road  
audio tape gap due to pause button was on**

Site Visit - Henderson reported that four members of the Board; Rogers, Papacosma, Nannen and himself, had attended a site visit where they spoke to the owners and the builder, observed the site and structure and the setbacks noting portions of the current structure are within the 75 foot setback from the water.

Applicant Presentation - Jared Damon, Applicant Representative, explained that the house in question was purchased around June of 2000 and they put some work into it as there were stability problems in the structure. Damon noted they also drilled a new well and two years ago installed a professionally designed septic system. They then sketched out a floor plan of about 2,500 square feet in keeping with other homes in the neighborhood. Damon stated that 76% of two buildings currently on the land are beyond/outside the 25 foot and 75 foot setbacks. With his proposed current design, only 25% of the buildings are beyond the setbacks. Damon noted they were concerned about environmental impact and hoped to increase a vegetative buffer to 20 feet, remove as few trees as possible, and planned to remove some existing black top and replace with a planted area. Rogers commented he had not noticed the paved area during the site visit.

Board Discussion and Questions - Henderson reviewed the criteria for setbacks from the water being to the greatest practical extent and indicated the Board must consider whether a structure could be placed to conform completely to the setbacks. Henderson noted the burden is on the applicant to demonstrate any issues with not meeting the setbacks.

Damon noted he is building a different shape and size house and was working to present less impact on the cove. He noted his current lot coverage is 18% and the new design would be 19%. Damon indicated the only issue that remains for review is the setback question. He explained that with his proposed design only two larger trees were impacted and he was trying to preserve a tree canopy on the north side of the lot and was therefore hesitant to move the building further back. The septic system is at the back door and there was not much choice in its location.

Henderson indicated the Board could look into issues of square footage of the house and noted a smaller building could fit into the building envelope and meet setbacks. Damon responded that he is set back further than neighboring structures and thought the size he had planned was reasonable and in keeping with the neighborhood. Papacosma explained that reconstruction triggers the necessity of the Board to review greatest practical extent.

Nannen demonstrated with a cut out shape representing the current design how the building could be moved back beyond the 75 foot water setback noting the sideline setbacks would in this case not be improved. Henderson commented that the Board is not so much concerned with the design of the building as they are to maintaining setbacks. The Board discussed protection of resources as the key issue. Damon indicated he could move the building back as Nannen had

suggested if the lot sidelines could remain as they are. The Board and Damon discussed that the building could be moved back while remaining as close as it presently is to the sideline.

**Board Vote To Approve with Conditions - Motion - The Board approves the application on the conditions: (1) the proposed new building is moved back beyond the 75 foot water setback and (2) but the new structure may be as close as the existing building is to the sideline setbacks on the northerly side. (Motion by Henderson and seconded by Nannen - carried 5-0)**

### **Other Business**

Meeting Date Change - Noel Musson reminded the Board that the April Board meeting will be held on Monday April 14 and the Board agreed to meet for site visits that morning around 8:00 A.M. at the Town Office.

Musson also talked briefly about the benefit of the Board interacting with applicants to discuss alternatives that could be acceptable. He recommended preliminary reviews as a means to do this.

Henderson reminded the Board that his chair duties will be completed soon.

**The meeting was adjourned at 8:45 P.M.**

Respectfully Submitted,

Karen O'Connell,  
Recording Secretary